

ORDINANCE NO. 3377-14



**An Ordinance amending Ordinance No. 1671-89 (EMC Title 19), as amended,
with the Addition of a Section Entitled "Unit Lot Subdivisions" and amending other
related sections the Zoning Code**

WHEREAS, the City Council finds the following:

1. The Master Builders Association of King and Snohomish Counties (MBA) requested that the City of Everett initiate consideration of a code amendment to allow for subdivision of lots for townhouse and single family detached lots in zones that allow single family attached housing.
2. The City's land use code allows townhouse development to be "for sale product" in these zones, which is accomplished under the Washington State condominium statutes.
3. The MBA members attended Planning Commission workshops to explain a number of problems related to financing homes created through the condominium process.
4. Problems include lower property valuations for resale of condos by homeowners, difficulty for homeowners to refinance, higher homeowner association fees, more costly mortgage insurance, and greater difficulty for homebuyers to qualify for financing.
5. Many of the problems described above also apply to single family detached condominiums that have been developed in zones allowing single family detached and multiple family dwellings.
6. Other cities in Snohomish County have recently adopted regulations to allow greater flexibility for subdividing townhouse developments and also allowing the unit lot subdivision process to be applied to existing condominium developments.
7. The proposed code amendment would not increase the permitted residential densities in zones that allow development of single family attached housing.
8. The City planning staff recommended against allowing the unit lot subdivision process to be used for new single family detached development in zones that are planned for higher density housing, as such developments typically are built at much lower densities than the City has planned for in multiple family zones.
9. Staff from the Fire, Building, Public Works, Legal and Planning departments have carefully reviewed the issues and problems that have been noted in existing townhouse and single family detached condominium developments with private access drives, private utilities, off-street parking supply, and property maintenance in order to prepare a code amendment that adequately addresses such concerns for the proposed unit lot subdivision amendments.

10. City staff has worked closely with MBA members to gain perspectives and information from individuals with experience in developing, building, marketing, insuring and managing condominiums and fee simple lot housing developments to draft the proposed code amendment.
11. MBA members have provided detailed testimony at Planning Commission workshops to help provide a better understanding of the challenges the development community has faced with financing of condominiums.
12. MBA members have testified about how using the unit lot subdivision process in other area jurisdictions has eliminated many of the problems associated with selling, financing, refinancing, and reselling townhomes in unit lot subdivision developments.
13. Staff has reviewed the experiences of other local jurisdictions that have adopted the unit lot subdivision process. These jurisdictions report favorable results in addressing the finance related problems identified by the MBA.
14. The Comprehensive Plan has several policy statements about encouraging owner occupied housing through land use and building code standards.
15. The Planning Commission held public discussions on October 15, November 19, and December 17 (all in 2013) on this topic.
16. The Planning Commission held a public hearing on February 4, 2014 to consider public testimony concerning the proposed amendment.

WHEREAS, the City Council concludes the following:

1. The proposed amendments to the City's Zoning Code to add a section for Unit Lot Subdivisions will benefit homeowners, developers and builders with more flexibility in designing, financing, selling, refinancing and managing townhouse developments in those zones where townhouse development is allowed.
2. Allowing the Unit Lot Subdivision process to apply retroactively to existing single family detached and townhouse condominium developments will benefit existing homeowners in selling and refinancing homes and managing existing developed neighborhoods.
3. The Unit Lot Subdivision process will not increase permitted residential densities.
4. Developments using the Unit Lot Subdivision process will be required to meet the design and development standards of the applicable land use zone.
5. The proposed amendment is consistent with the Comprehensive Plan.
6. The proposed amendment promotes the best long term interests of the community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 36 of Ordinance No. 2397-99, as amended (EMC 19.05), Special Regulation No. 5 of Table 5.1, which reads as follows:

(5) Except in the core residential area, see Section 7.010 for development standards for single-family dwellings on lots smaller than five thousand square feet. See Section 7.020 for regulations

on accessory buildings. See Chapter 33G of this title for standards that apply to single-family dwellings in the core residential area.

Is hereby amended to read as follows:

(5) Except in the core residential area, see Section 7.010 for development standards for single-family dwellings on lots smaller than five thousand square feet. See Section 7.020 for regulations on accessory buildings. See Chapter 33G of this title for standards that apply to single-family dwellings in the core residential area. Not more than one single family detached dwelling may be permitted on a lot in the R-S, R-1, R-2, R-3L, R-3, R-4, R-5, B-2, B-2B, C-1, or C-1R zones.

Section 2. Section 37 of Ordinance No. 2397-99, as amended (EMC 19.06), Special Regulation No. 5 of Table 6.1, which reads as follows:

Table 6.1 Development standards.

ZONE STANDARD	A-1	R-S	R-1	R-2	R-1	R-2	R-3	R-3	R-4	R-5	B-1	B-2	B-2	B-3	BM	E-1	MU	C-1	C-2	W-	M-M	M-1	M-2	
					(A)	(A)	(L)	(39)	(39)	(39)	(39)	(B)	(13)	U	O			1R	C-2E					(1)
Min. Lot Area	5 acres	9,000 sf	6,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	20,000 sf	20,000 sf	5,000 sf	5,000 sf	5,000 sf	5,000 sf	1 acre	5 acres	1 acre
		(1)	(1)	(1)	(2)	(2)					(15)	(15)	(15)	(15)	(15)			(15)	(15)	(15)	(15)	(15)	(15)	(15)
Min. Required Setback:																12 ft from curb (44)	12 ft from curb (44)							
Front (3)	25'	20'	20'	20'	20'	20'	20'	20'	10'	10'	None (16)	None (17)	10'	None (18)	None (40)	None (44)	None (44)	None (17)	None (19)	10' (20)	10' (20)	20'	30'	None (21)
Rear (3)	25'	20'	20'	20'	20'	20'	20'	20'	20'	20'	10' (22)	10' (22)	10' (22)	None (e)	None (e)	None (45)	None (45)	10' (22)	None (23)	10' (20)	10' (20)	20' (4)	15' (26)	10' (24)
Side, Street (3)	10'	10'	10'	10'	10'	10'	10'	10'	10'	10'	None (16)	None (17)	10'	None (18)	None (40)	12 ft from curb (44)	12 ft from curb (44)	None (17)	None (19)	None (20)	None (20)	15'	30'	None (21)

ZONE	STANDARD	RDS	A-1	R-S	R-1	R-2	R-1 (A)	R-2 (A)	R-3 (L)	R-3 (39)	R-4 (39)	R-5 (39)	B-1 (39)	B-2 (39)	B-2 (B)	B-3 (13)	BM U	E-1	MU O	C-1 1R (39)	C-2 2E (14)	W- C	M-S (4)	M-M (14)	M-1 (14)	M-2
Side, Interior (3)		10'	5'	5'	5'	5'(2)	5'(2)	5'(5)	5'(5)	5'(5)	5'(5)	Non (25)	Non (25)	5'(2)	Non e	Non e	Non e	Non e	Non e	Non e	Non e	Non e	Non e	10' (2)	15' (26)	No ne (24)
Lot Width, Min.		N/A	60'	50'	50'	50'(2)	50'(2)	50'	50'	50'	50'	50'	50'	50'	Non e	50'	100'	100'	50'	50'	50'	50'	10'	150'	100'	
Lot Depth, Min.		N/A	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	100'	100'	80'	80'	80'	80'	10'	150'	100'	
Max. Lot Coverage by Building (37)		N/A	35 %	35 %	40 %	40 %	40 (2)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50 %	N/A	
Max. Building Height		35' (6)	28' (7)	28' (7)	28' (7)	28' (7)	35' (8)	45' (8)	80' (8)	80' (8)	28'	35' (27)	28' (27)	28'	(28)	(41)	75' (46)	75' (46)	50' (27)	65' (29)	35' (20)	35' (20)	65' (30)	(31)	80' (32)	
Landscap e Category		E	E(9)	E(9)	E(9)	A(10)	A(10)	A(10)	A(10)	A(10)	B(3)	B(3)	B(3)	(35)	B(4)	B (47)	B (47)	B(3)	B (4)	B(20)	B(20)	D	D(36)	C		
Sign Category		E(1)	E(1)	E(1)	E(1)	E(1)	D(12)	D(12)	D(12)	D(12)	C	A	B	C	A(43)	A(48)	A(48)	A	B	B	B	C	C	C		

sf = square feet N/A = not applicable

SPECIAL REGULATIONS FOR ZONING CODE DEVELOPMENT STANDARDS TABLE NO. 6.1

(1) See Section 39.130 for lot area averaging in plats and the cluster alternative for subdividing for single-family attached dwellings. In the R-2 zone, minimum lot area for single-family dwellings with alley access shall be four thousand five hundred square feet. The minimum required lot area for a duplex in the R-2 zone shall be seven thousand five hundred square feet.

(2) The following standards apply to single-family attached developments of three or more dwellings on a lot in the R-1(A) and R-2(A) zones:

(a) Minimum lot area in the R-1(A) zone shall be eleven thousand square feet. Minimum lot area in the R-2(A) zone shall be nine thousand square feet. There shall be no minimum lot area requirement for individual lots within a single-family attached subdivision.

(b) Minimum interior side setback shall be ten feet, except that it shall be fifteen feet when abutting a lot in the R-S, R-1 or R-2 zone.

(c) Minimum lot width shall be seventy-five feet. There shall be no minimum lot width requirement for individual lots within a single-family attached subdivision.

(d) All developments shall comply with Chapter 15 of this title (multiple-family development standards) and the multiple-family design guidelines adopted by city council Resolution No. 4618.

(e) Lot coverage requirements do not apply to single-family attached developments reviewed under the multiple-family development standards of Chapter 15 of this title and the multiple-family design guidelines.

(f) There shall be no minimum interior side setback requirement for individual lots within a single-family attached subdivision.

(3) See Section 39.150 for exceptions to required setback standards. See Section 7.020 for setback regulations for buildings which are accessory to residential uses.

(4) *Repealed by Ord. 3072-08.*

(5) Minimum setback for multiple-family dwellings shall be twenty-five feet when abutting R-S or R-1 zones, and fifteen feet when abutting R-2 zones. Building setbacks for buildings which are permitted to exceed thirty-five feet in height shall be an additional five feet for each ten feet or fraction thereof by which the building exceeds thirty-five feet in height for only those portions of the building which exceed thirty-five feet in height.

(6) Agricultural structures may have a maximum building height of fifty feet.

(7) See Section 7.020 for maximum permitted height of accessory buildings.

(8) Twenty-eight feet for any portion of building within fifty feet of lots located in the R-S, R-1, R-2, R-1(A), or R-2(A) zones. In the R-4 and R-5 zones, forty-five feet when located at least fifty feet but less than two hundred feet from lots located in the R-S, R-1, R-2, R-1(A) or R-2(A) zones.

(9) Landscape Category E for single-family detached or two-family (duplex) dwellings. Landscape Category B for permitted nonresidential uses.

(10) Landscape Category B for permitted nonresidential uses. Landscape Category E for single-family detached or two-family (duplex) dwellings.

- (11) Sign Category D for permitted nonresidential uses.
- (12) Sign Category E for single-family detached and two-family (duplex) dwellings.
- (13) See Chapter 22 of this title for additional regulations for the B-3 zone.
- (14) See Chapter 27 of this title for additional regulations for the M-1 zone. See Chapter 28 of this title for additional regulations for the M-M zone. See Chapter 25 of this title for additional regulations for the C-2ES zone.
- (15) No minimum lot area requirement in commercial and industrial zones for above ground utility and communications facilities.
- (16) Except for permitted residential uses, new buildings shall be constructed up to the front property line for a minimum of fifty percent of the length of all facades facing the front property line. Residential buildings shall have a minimum setback of ten feet, except when part of a mixed-use commercial-residential building, minimum setbacks for nonresidential use shall apply. Service stations shall have a setback of ten feet.
- (17) The following uses, where permitted, shall have a minimum setback of ten feet along any abutting street frontage, which shall be landscaped with Type III landscaping: vehicle service station; truck, boat and other vehicle sales or rental; vehicle washing facilities; commercial or commuter parking facilities; hotels and motels; residential uses; retail or wholesale uses involving outdoor display and storage areas; and self-service storage.
- (18) See Section 22.020.A for setback regulations in the B-3 zone.
- (19) Ten feet when abutting Pacific Avenue or East Marine View Drive.
- (20) See Section 6.080.
- (21) Twenty feet when abutting arterial streets.
- (22) No rear setback required when abutting an improved public alley.
- (23) Ten feet when abutting lots located in residential zones.
- (24) Twenty-five feet when abutting lots located in residential zones.
- (25) Ten feet when abutting lots located in residential zones. Five feet for single-family dwellings and duplexes. Ten feet for service stations.
- (26) Seventy-five feet when abutting lots located in residential zones.

(27) In this zone, multiple-family dwellings or the residential portions of mixed-use buildings shall be allowed a height of:

(a) Eighty feet when located at least three hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least one hundred fifty feet from lots located in the R-3(L) and R-3 zones.

(b) Sixty feet when located at least one hundred fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least seventy-five feet from lots located in the R-3(L) and R-3 zones.

(c) Forty-five feet when located at least one hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(d) Twenty-eight feet when located less than fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(28) See Section 22.020.B for building height regulations in the B-3 zone.

(29) Forty feet when located within one hundred feet of lots located in the R-S, R-1, R-2, R-2(A), R-3(L) or R-3 zones. Multiple-family dwellings or the residential portions of mixed-use buildings, where permitted, shall be allowed a height of:

(a) Eighty feet when located at least three hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least one hundred fifty feet from lots located in the R-3(L) and R-3 zones.

(b) Sixty feet when located at least one hundred fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least seventy-five feet from lots located in the R-3(L) and R-3 zones.

(c) Forty-five feet when located at least one hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(d) Twenty-eight feet when located less than fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(30) Thirty-five feet when located within one hundred feet of lots located in the R-S, R-1, R-2, R-1(A), R-2(A), R-3(L) or R-3 zone.

(31) Permitted building height is determined by the distance the building is separated from lots located within residential zones:

Less than 130 feet	=	25 feet
130 feet to 175 feet	=	35 feet
175 feet to 300 feet	=	50 feet
300 feet to 500 feet	=	80 feet

$$= 120 \text{ feet}$$

- Is hereby amended to read as follows:**

ZONE	STANDARD	RDS	A-1	R-S	R-1	R-2	1A	2A	R-3L	R-3(39)	R-4(39)	R-5(39)	B-1(39)	B-2(39)	B-2B(49)	B-3(13)	BM	E-1(49)	MU	O	C-1	C-2	W-	M-S	M-M	M-1	M-2
																					1R	C-2E					
Min. Lot Area	5	9,000	6,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	20,000	20,000	5,000	5,000	5,000	5,000	1	5	1		
	acres	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	sf	acres	acres	acres		
		(1)	(1)	(1)	(2)	(2)						(15)	(15)	(15)	(15)	(15)					(15)	(15)	(15)	(15)	(15)	(15)	
Min. Required																		12 ft from	12 ft from								

ZONE STANDARD RDS	A-1	R-S	R-1	R-2	R-1A	R-2A	R-3L (49)	R-3 (39) (49)	R-4 (39) (49)	R-5 (39) (49)	B-1 (39) (49)	B-2 (39) (49)	B-2B (49)	B-3 (13)	BM U	E-1 (49)	MU O (49)	C-1 C-1R (39) (49)	C-2 C-2E (14) (49)	W-C (14) (49)	M-S (14) (49)	M-M (14) (49)	M-1 (14) (49)	M-2 (14) (49)	
Setback:																curb (44)	curb (44)								
Front (3)	25'	20'	20'	20'	20'	20'	20'	20'	10'	10'	Non e (16)	Non e (17)	10'	Non e (18)	Non e (40)	Non e (44)	Non e (44)	Non e (17)	Non e (19)	10' (20)	10' (20)	20'	30'	Non e (21)	
Rear (3)	25'	20'	20'	20'	20'	20'	20'	20'	20'	20'	10' (22)	10' (22)	10' (22)	Non e (18)	Non e (40)	Non e (45)	Non e (45)	10' (22)	Non e (23)	10' (20)	10' (20)	20' (24)	15' (26)	10' (24)	
Side, Street (3)	10'	10'	10'	10'	10'	10'	10'	10'	10'	10'	Non e (16)	Non e (17)	10'	Non e (18)	Non e (40)	12 ft from curb (44)	12 ft from curb (44)	Non e (17)	Non e (19)	Non e (20)	Non e (20)	15'	30'	Non e (21)	
Side, Interior (3)	10'	5'	5'	5'	5'(2)	5'(2)	5'(5)	5'(5)	5'(5)	5'(5)	Non e (25)	Non e (25)	5'(2)	Non e (18)	Non e (40)	Non e (44)	Non e (44)	Non e (25)	Non e (23)	Non e (20)	Non e (20)	10' (24)	15' (26)	Non e (24)	
Lot Width, Min.	N/A	60'	50'	50'	50'(2)	50'(2)	50'	50'	50'	50'	50'	50'	50'	Non e (18)	50'	100'	100'	50'	50'	50' (20)	50' (20)	10'	150'	100'	
Lot Depth, Min.	N/A	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	80'	100'	100'	80'	80'	80' (20)	80' (20)	10'	150'	100'	
Max. Lot Coverage by Building (37)	N/A	35 %	35 %	40 %	40 %	40 %	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	50 %	N/A	
Max. Building Height	35' (6)	28' (7)	28' (7)	28' (7)	28' (7)	28' (7)	35' (8)	45' (8)	80' (8)	80' (8)	28' (27)	35' (27)	28' (27)	(28)	(41)	75' (46)	75' (46)	50' (27)	65' (29)	35' (20)	35' (20)	65' (30)	(31)	80' (32)	
Landscap e Category	E	E(9)	E(9)	E(9)	A(10)	A(10)	A(10)	A(10)	A(10)	A(10)	B(3)	B(3)	B(3)	(35)	B(4)	B (47)	B (47)	B(3)	B (47)	B(2)	B(2)	D	D(3)	C	

(5) Minimum setback for multiple-family dwellings shall be twenty-five feet when abutting R-S or R-1 zones, and fifteen feet when abutting R-2 zones. For Unit Lot Subdivisions allowed under Chapter 15A, the minimum interior side setback from the exterior property boundary of the parent lot shall be twenty feet. Building setbacks for buildings which are permitted to exceed thirty-five feet in height shall be an additional five feet for each ten feet or fraction thereof by which the building exceeds thirty-five feet in height for only those portions of the building which exceed thirty-five feet in height.

(6) Agricultural structures may have a maximum building height of fifty feet.

(7) See Section 7.020 for maximum permitted height of accessory buildings.

(8) Twenty-eight feet for any portion of building within fifty feet of lots located in the R-S, R-1, R-2, R-1(A), or R-2(A) zones. In the R-4 and R-5 zones, forty-five feet when located at least fifty feet but less than two hundred feet from lots located in the R-S, R-1, R-2, R-1(A) or R-2(A) zones.

(9) Landscape Category E for single-family detached or two-family (duplex) dwellings. Landscape Category B for permitted nonresidential uses.

(10) Landscape Category B for permitted nonresidential uses. Landscape Category E for single-family detached or two-family (duplex) dwellings.

(11) Sign Category D for permitted nonresidential uses.

(12) Sign Category E for single-family detached and two-family (duplex) dwellings.

(13) See Chapter 22 of this title for additional regulations for the B-3 zone.

(14) See Chapter 27 of this title for additional regulations for the M-1 zone. See Chapter 28 of this title for additional regulations for the M-M zone. See Chapter 25 of this title for additional regulations for the C-2ES zone.

(15) No minimum lot area requirement in commercial and industrial zones for above ground utility and communications facilities.

(16) Except for permitted residential uses, new buildings shall be constructed up to the front property line for a minimum of fifty percent of the length of all facades facing the front property line. Residential buildings shall have a minimum setback of ten feet, except when part of a mixed-use commercial-residential building, minimum setbacks for nonresidential use shall apply. Service stations shall have a setback of ten feet.

(17) The following uses, where permitted, shall have a minimum setback of ten feet along any abutting street frontage, which shall be landscaped with Type III landscaping: vehicle service station; truck, boat and other vehicle sales or rental; vehicle washing facilities; commercial or commuter parking facilities;

hotels and motels; residential uses; retail or wholesale uses involving outdoor display and storage areas; and self-service storage.

(18) See Section 22.020.A for setback regulations in the B-3 zone.

(19) Ten feet when abutting Pacific Avenue or East Marine View Drive.

(20) See Section 6.080.

(21) Twenty feet when abutting arterial streets.

(22) No rear setback required when abutting an improved public alley.

(23) Ten feet when abutting lots located in residential zones.

(24) Twenty-five feet when abutting lots located in residential zones.

(25) Ten feet when abutting lots located in residential zones. Five feet for single-family dwellings and duplexes. Ten feet for service stations.

(26) Seventy-five feet when abutting lots located in residential zones.

(27) In this zone, multiple-family dwellings or the residential portions of mixed-use buildings shall be allowed a height of:

(a) Eighty feet when located at least three hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least one hundred fifty feet from lots located in the R-3(L) and R-3 zones.

(b) Sixty feet when located at least one hundred fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least seventy-five feet from lots located in the R-3(L) and R-3 zones.

(c) Forty-five feet when located at least one hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(d) Twenty-eight feet when located less than fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(28) See Section 22.020.B for building height regulations in the B-3 zone.

(29) Forty feet when located within one hundred feet of lots located in the R-S, R-1, R-2, R-2(A), R-3(L) or R-3 zones. Multiple-family dwellings or the residential portions of mixed-use buildings, where permitted, shall be allowed a height of:

(a) Eighty feet when located at least three hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least one hundred fifty feet from lots located in the R-3(L) and R-3 zones.

(b) Sixty feet when located at least one hundred fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones and at least seventy-five feet from lots located in the R-3(L) and R-3 zones.

(c) Forty-five feet when located at least one hundred feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(d) Twenty-eight feet when located less than fifty feet from lots located in the R-S, R-1, R-2, R-1(A) and R-2(A) zones.

(30) Thirty-five feet when located within one hundred feet of lots located in the R-S, R-1, R-2, R-1(A), R-2(A), R-3(L) or R-3 zone.

(31) Permitted building height is determined by the distance the building is separated from lots located within residential zones:

Less than 130 feet	= 25 feet
130 feet to 175 feet	= 35 feet
175 feet to 300 feet	= 50 feet
300 feet to 500 feet	= 80 feet
Over 500 feet	= 120 feet

(32) Forty feet when located within one hundred feet of a residential zone. Aircraft manufacturing plants are permitted to have a building height of one hundred sixty feet.

(33) Landscape Category E for single-family detached or duplex dwellings.

(34) Landscape Category E for single-family detached or duplex dwellings. Landscape Category A for single-family attached or multiple-family dwellings.

(35) Street trees and landscaping shall be provided as required by Section 22.020.D.

(36) See Section 27.020.B for additional landscaping requirements in the M-1 zone.

(37) In single-family zones, lots less than five thousand square feet in area shall be permitted to have a maximum lot coverage of fifty percent.

(38) Except on the Mukilteo tank farm, in PDO zones the heights may be increased up to one hundred feet through the public review process.

(39) For properties located within the core residential area, see the development standards in Chapter 33G of this title.

(40) See Section 31A.030.C.2 for ground floor residential setback requirements.

(41) See Section 31A.030.A for building height regulations in the BMU zone.

(42) See Section 31A.040.F for additional street tree requirements.

(43) See Section 31A.040.L for additional sign requirements in the BMU zone.

(44) See also Section 31B.050.A for E-1 and MUO zone regulations.

(45) See Section 31B.030.A for setbacks adjacent to residential zones.

(46) The city may allow a maximum building height for residential buildings or the residential portion of mixed-use buildings to exceed seventy-five feet as provided by Section 31B.030.C.

(47) See special provisions in Section 31B.060 as well as Chapter 35 of this title.

(48) See special provisions in Section 31B.090 as well as Chapter 36 of this title.

(49) See Chapter 15A for development standards for Unit Lot Subdivisions for single family attached dwelling unit development in this zone.

Section 3. Ordinance No. 1671-89 (EMC 19.15), as amended, is hereby amended by the addition of the following, which shall be codified as EMC Chapter 19.15A:

Chapter 15A Unit Lot Subdivisions

15A.010. Applicability, Purpose, Definitions.

A. Purpose. The primary purpose of these provisions is to allow for the creation of unit lots for townhouse dwellings, while applying only those site development standards applicable to the parent site as a whole. The secondary purpose of these provisions is to allow for the unit lot subdivision process to be applied to townhouse and single family detached condominium developments for which, as of the effective date of this chapter, either:

1. a condominium declaration and survey had been recorded pursuant to Chapter 64.34 RCW; or
2. (a) a complete application for formal approval of a site development plan had been filed, and (b) the recording of a condominium declaration and survey had been deferred in anticipation of the adoption of this chapter, and (c) the application had accepted by the City, and was still actively being processed by the City.

B. Applicability - New Townhouse Unit Lot Subdivisions. The provisions of this chapter apply to the subdivision of land for new single family attached dwelling developments in the R-3L, R-3, R-4, R-5, B-2, B-2B, C-1, C-1R, E-1 and MUO zones.

C. Applicability - Townhouse and Single Family Detached Condominiums in Existence as of the Effective Date of this Chapter. The provisions of this section apply to single family attached developments, and / or single family detached condominium developments for which, as of the effective date of this chapter, either:

1. a condominium declaration and survey had been recorded pursuant to Chapter 64.34 RCW, in which all property owners apply to subdivide existing condominium dwelling units into unit lot subdivisions; or
2. (a) a complete application for formal approval of a site development plan had been filed, and (b) the recording of a condominium declaration and survey had been deferred in anticipation of the adoption of this chapter, and (c) the application had accepted by the City, and was still actively being processed by the City.

D. Conflict. In the event of a conflict between this Chapter and any other provisions of Title 19 (Zoning) or Title 18 (Land Division) of the EMC, the requirements of this chapter shall control.

E. Definitions. For purposes of this chapter, the following terms shall be defined as provided herein.

1. "Association" or "Homeowners' association" means a corporation, unincorporated association, or other legal entity, each member of which is an owner of an individual lot within the unit lot subdivision.
2. "Board" or "Board of Directors" means the body, regardless of name, with primary authority to manage the affairs of the Association.
3. "Common areas" means portions of the subdivision not subdivided for individual lots or not dedicated to the City as public streets, utility systems or other public areas or facilities.
4. "Condominium" means a development subjected to RCW Chapters 64.32 or 64.34.
5. "Dwelling, single family attached" shall have the same definition as stated in EMC Chapter 19.04.
6. "Lot, unit" or "Unit lot" means a subdivided lot within a development approved through the unit lot subdivision process of this chapter.
7. "Owner" means the owner of a lot, but does not include a person who has an interest in a lot solely as security for an obligation. "Owner" also means the vendee, not the vendor, of a lot under a real estate contract.
8. "Parent site" means a parcel of land which may be subdivided into unit lots through the unit lot subdivision process of this chapter.
9. "Townhouse" or "Dwelling, townhouse" shall have the same definition as "dwelling, single family attached" as defined in this section.
10. "Unit lot subdivision" means a subdivision of land authorized by the Everett Municipal Code Chapter 19.15 as an alternative to conventional subdivision processes of EMC Title 18.

15A.020. Unit lot subdivision lot standards. As allowed by this chapter, development on individual unit lots within the unit lot subdivision need not conform to the minimum lot area or dimensional standards of EMC Title 19 (Zoning) or Title 18 (Land Division) provided that overall development of the parent site meets the development and design standards of the underlying zoning and the requirements of this Section. There shall be no minimum required lot area for individual lots within a unit lot subdivision provided that the area of the unit lot shall be large enough to contain the dwelling unit and any accessory structures, decks, fences, garages, driveways, private yard areas, parking, landscaping or other improvements that are accessory to the dwelling unit; provided further, so long as conforming to the approved site development plan, such accessory improvements may encroach upon or be located in an adjoining unit lot or common area pursuant to an appropriate easement.

15A.025. Condominium Developments Existing as of the Effective Date of this Chapter. Single family attached and / or single family detached dwelling developments existing at the time this chapter became effective may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the development was approved. As a result of the unit lot subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards of this title as applied to the individual unit lot, except that any private open space for individual dwelling units shall be provided on the same lot as the dwelling unit it serves. The Review Authority shall have the authority to add reasonable conditions of approval that would make the development more closely conform to current landscaping and / or design standards.

15A.030. Ownership of Common Areas. Portions of the parent site not subdivided for individual unit lots or not dedicated to the City as public streets or public utility systems shall be owned in common by the owners of the individual lots within the subdivision, or by a homeowners association comprised of the owners of the individual unit lots within the subdivision.

15A.040. Building Setbacks. Building setbacks shall be as required for the zone as applied to the underlying parent site as a whole. There shall be no setback required from unit lot lines which are interior to the perimeter of the parent site; provided, however, that any structure located upon a unit lot created hereunder shall comply with the setbacks applicable to the approved development plan.

15A.045 Development and Design Standards. Except as otherwise provided in EMC Chapter 19.15A, all unit lot subdivisions shall comply with the applicable development and design standards of EMC Chapter 19.15. If the property is located in an area or zone that is not subject to the requirements of EMC Chapter 19.15, the unit lot subdivision shall comply with the applicable development and design standards for the area or zone in which the property is located, except as may otherwise be provided by this Chapter.

15A.050. Off-street parking.

- A. The minimum amount of off-street parking shall be as required by EMC Chapter 19.34. Required off-street parking space may be provided in an area owned and maintained in common by the homeowners association. Parking spaces located in a common area shall be available to residents or guests and invitees of residents, and shall not be reserved for any specific dwelling unit except as authorized by Section 020.
- B. All required off-street parking spaces shall be maintained in perpetuity for off-street parking for the residents, or guests or invitees of residents. Such spaces shall not be used at any time or in any manner that precludes use for off-street parking of operable motor vehicles regularly used by occupants of the unit lot dwellings.
- C. Parking shall be prohibited in fire lanes, and each fire lane shall be clearly identified with signage and pavement marking to indicate that the fire lane is not to be used for parking at any time. The Homeowners Association shall be responsible for enforcing this requirement. The City shall have the authority to remove any vehicle illegally parked in a fire lane at the vehicle owner's expense.

15A.060. Private access drives. Private access drives are allowed to provide access to dwellings and off-street parking areas within a unit lot subdivision. All private access drives shall be designed and constructed to City Design and Construction standards. Access drive width shall be 24 feet, within which a four foot wide painted walkway shall be provided for pedestrian facilities. Access drives less than 150 feet in length may have a width of 20 feet and need not include a pedestrian walkway. Parking within any access drive shall be prohibited, but off-street parking may be located adjacent to an approved access drive outside of the minimum required dimensions of the access drive. The Homeowners Association shall be responsible for enforcing this requirement. The City shall have the authority to remove any vehicle illegally parked in a fire lane at the vehicle owner's expense. As an alternative to the private access drive, the Applicant may provide a public street meeting the City Design and Construction standards.

15A.065. Public water and sewer mains, fire hydrants. All water and sewer mains and fire hydrants within the unit lot subdivision shall be constructed to public utility standards and dedicated to the City. The City shall have the discretion to refuse to accept dedication of utility systems in developments that pre-date this chapter that are not constructed to City standards.

15A.070. Ingress, egress and utilities access. Each unit lot subdivision shall make adequate provisions for ingress, egress and utilities access to and from each unit lot created by dedicating streets or utilities to the City, or by reserving such common areas or other easements over and across the parent site as deemed necessary to comply with all other design and development standards applicable to the approved development plan.

15A.080. Commencement of Construction, Final Plat Approval.

- A. Site development and building construction may commence upon approval of a development plan, but prior to final subdivision approval and recording; provided that all applicable permits and approvals have been obtained by the applicant. However, no dwelling unit or unit lot may be sold, transferred, occupied or conveyed prior to final subdivision approval and recording.
- B. The City is authorized to approve changes between the preliminary plat approval and final plat approval, provided that no change shall be allowed that does not fully comply with the applicable requirements of Title 19 (Zoning Code) or Title 18 (Land Division Code).

15A.090. Landscaping. In addition to perimeter landscaping required for the parent site, landscaping shall be provided on each unit lot where yard area abuts an access drive, and between driveways and/or parking areas on abutting lots. A landscape plan shall be submitted with the land use application showing the following:

- Perimeter landscape standard along rear or interior lot lines of parent site. All required perimeter landscaping shall be placed within a common area and shall be maintained by the Homeowners' Association. Conversion of perimeter landscaping to private yard area is prohibited;
- Street frontage landscaping on public streets;
- Street trees on private access drives shall meet the standards of EMC Chapter 19.35.

15A.095. Homeowners Association Incorporation. Prior to the recording of the subdivision, the applicant shall provide evidence that the homeowners association has been incorporated pursuant to the laws of the State of Washington, including the filing of the association's articles of incorporation with the Washington Secretary of State. In the event the homeowners association should cease to be a corporation under the laws of the State of Washington and as required by this Section, such association shall continue as an unincorporated association governed by the Homeowners Association Act (RCW Chapter 64.38).

15A.100. Covenants and Maintenance.

A. **Covenants and Homeowners Association.** Prior to the issuance of building permits, the applicant shall provide a preliminary draft of covenants, declarations and restrictions with the subdivision application for review as part of the subdivision. Prior to the recording of the subdivision, the applicant shall provide final covenants, declarations and restrictions in a form satisfactory to the City Attorney, which shall be recorded with the county auditor's office providing that the homeowners association shall be subject to and comply with:

1. such covenants, declarations and restrictions;
2. the Homeowners Association Act (RCW Chapter 64.38);

3. the applicable Washington corporation statute; and
4. any applicable provisions of the City code including, but not limited to, Subsections B and C of this Section.

B. Maintenance of private common areas and infrastructure. All common open space and recreation areas and all private utility infrastructure located within a unit lot subdivision shall be maintained in perpetuity by the homeowners association. Prior to the recording of the subdivision, the applicant shall provide the covenants, declarations and restrictions required by Subsection A of this Section for review by the City, which shall provide that the following common areas and infrastructure are maintained by the homeowners association in accordance with all applicable provisions of the City code. Said covenants, declarations and restrictions shall provide authority for the City, after providing reasonable written notice to the homeowners association and opportunity to perform required maintenance, to recover any costs incurred by the City to maintain private infrastructure or common areas due to a failure of the homeowners association to adequately maintain privately owned improvements, including a lien on the property or other appropriate assurance device, as determined by the City.

1. private access drives;
2. vehicle and pedestrian access easements;
3. joint use and maintenance agreements;
4. common off-street parking;
5. common open space (including, but not limited to, landscape areas, gardens, woodlands, walkways, courtyards or lawns, and outdoor recreation areas);
6. private utility infrastructure (including, but not limited to, underground utilities and utility easements); and
7. any other common buildings or improvements.

C. Maintenance of lot, buildings and facilities. Buildings, utilities and facilities on individual unit lots shall be maintained by the property owner in accordance with City codes and the requirements of the covenants, declarations and restrictions applicable to the development. Prior to the recording of the subdivision, the applicant shall provide the covenants, declarations and restrictions required by Subsection A of this Section for review by the City, which shall provide that buildings, utilities and facilities on individual lots shall be maintained by the property owner in accordance with City codes and the requirements of such covenants, declarations and restrictions.

15A.110. Recorded Conditions. Notes shall be placed on the plat recorded with the county auditor's office to acknowledge the following:

- A. Approval of the design and layout of the development was granted by the review of the development, as a whole, on the parent site by the development plan approval (stating the project file number);
- B. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent site as a whole, and shall conform to the approved site development plan;
- C. If a structure or portion of a structure has been damaged or destroyed, any repair, reconstruction or replacement of the structure(s) shall conform to the approved site development plan;
- D. The individual unit lots are not separately buildable outside of the context of the approved development plan for the subdivision and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent site.

Section 4. Paragraph B of Section 39.130 of Ordinance No. 1671-89, as amended, (EMC 19.39.130.B), which reads as follows:

B. Minimum Lot Dimensions. Except as provided in subsection E of this section, every lot shall be of a shape such that two lines, one equal to the required width and one equal to the required depth for the land use district, may be placed at right angles to each other entirely within the lot boundaries. The minor portion of a panhandle lot may not be used for purposes of meeting this requirement. Lot width shall be measured at the midpoint between the front and rear building setback lines of the primary structure, which structure does not include detached garages or other accessory buildings.

Is hereby amended to read as follows:

B. Minimum Lot Dimensions. Except as provided in subsection E of this section and Chapter 15A of this title, every lot shall be of a shape such that two lines, one equal to the required width and one equal to the required depth for the land use district, may be placed at right angles to each other entirely within the lot boundaries. The minor portion of a panhandle lot may not be used for purposes of meeting this requirement. Lot width shall be measured at the midpoint between the front and rear building setback lines of the primary structure, which structure does not include detached garages or other accessory buildings.

Section 4. Severability. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 6. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 7. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.


Ray Stephanson, Mayor

ATTEST: 
CITY CLERK

Passed: 4/23/14

Valid: 4/28/14

Published: 5/1/14

Effective Date: 5/13/14